

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jean Paul Lozada	Team: Squad #3	CCRB Case #: 201501137	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 02/10/2015 11:00 PM	Location of Incident: § 87(2)(b) and the 121st Precinct stationhouse	Precinct: 121	18 Mo. SOL 8/10/2016	EO SOL 8/10/2016	
Date/Time CV Reported Wed, 02/18/2015 10:15 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 02/18/2015 10:15 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Genaro Barreiro	00308	950050	121 PCT
2. SGT Michael Dicecco	03303	903799	121 PCT
3. POM Jose Tabora	17232	943856	121 PCT
4. An officer			121 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Robert Hesterhagen	07727	949868	121 PCT
2. POM Daniel Golat	09913	950506	121 PCT
3. POM Victor Villarreal	04382	951397	121 PCT
4. POM Jack Becaccio	17397	937897	121 PCT
5. SGT Dennis Wu	2289	939716	121 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Genaro Barreiro	Discourtesy: On February 10, 2015, at § 87(2)(b) in Staten Island, PO Genaro Barreiro spoke rudely to § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)
B.POM Genaro Barreiro	Force: On February 10, 2015, at § 87(2)(b) in Staten Island, PO Genaro Barreiro struck § 87(2)(b) with a blunt instrument.	§ 87(2)(b)
C.POM Genaro Barreiro	Force: On February 10, 2015, at § 87(2)(b) in Staten Island, PO Genaro Barreiro used physical force against § 87(2)(b)	§ 87(2)(b)
D.SGT Michael Dicecco	Force: On February 10, 2015, at § 87(2)(b) in Staten Island, Sgt. Michael Dicecco used physical force against § 87(2)(b)	§ 87(2)(b)
E.SGT Michael Dicecco	Abuse: On February 10, 2015, at § 87(2)(b) in Staten Island, Sgt. Michael Dicecco frisked § 87(2)(b)	§ 87(2)(b)
F.SGT Michael Dicecco	Abuse: On February 10, 2015, at § 87(2)(b) in Staten Island, Sgt. Michael Dicecco searched § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
G.SGT Michael Dicecco	Abuse: On February 10, 2015, at § 87(2)(b) in Staten Island, Sgt. Michael Dicecco searched the car in which § 87(2)(b) was an occupant.	
H.SGT Michael Dicecco	Abuse: On February 10, 2015, at § 87(2)(b) in Staten Island, Sgt. Michael Dicecco damaged § 87(2)(b) s property.	
I.POM Genaro Barreiro	Abuse: On February 10, 2015, at § 87(2)(b) in Staten Island, PO Genaro Barreiro threatened to arrest § 87(2)(b)	
J. An officer	Abuse: On February 14, 2015, at the 121st Precinct stationhouse, an officer threatened to arrest § 87(2)(b)	
K. An officer	Abuse: On February 15, 2015, at the 121st Precinct stationhouse, an officer did not process § 87(2)(b) s complaint regarding officers.	
§ 87(4-b) § 87(2)(g)		

Case Summary

On February 18, 2015, § 87(2)(b) filed this complaint with the CCRB via telephone.

On February 10, 2015, at approximately 11:00 p.m., § 87(2)(b) was pulled over near his home at § 87(2)(b) in Staten Island by Sgt. Michael DiCecco and PO Genaro Barreiro for driving with his headlamps off. § 87(2)(b) exited his vehicle and PO Barreiro, who was allegedly cursing (**Allegation A**), ordered him to get back in his vehicle, and observed an item that appeared to be a gravity knife. § 87(2)(b) did not comply with PO Barreiro's order and PO Barreiro allegedly pushed the vehicle's open door into § 87(2)(b)'s chest (**Allegation B**) and pushed § 87(2)(b) in his chest and shoulders (**Allegation C**) in an attempt to get him back into his vehicle. § 87(2)(b) alleged that PO Barreiro continued to push him (**Allegation C cont'd**) as he and Sgt. DiCecco argued about a spoon used for consuming drugs that had supposedly fallen out of his car. PO Barreiro asked § 87(2)(b) for his license, registration, and proof of insurance and § 87(2)(b) refused to provide these documents to him. PO Barreiro and Sgt. DiCecco then grabbed § 87(2)(b) brought him to the back of his vehicle, and handcuffed him (**Allegations C cont'd, D**). PO Barreiro and Sgt. DiCecco observed an item that appeared to be a gravity knife in plain view in the cup holder of § 87(2)(b)'s vehicle. While in the rear of the vehicle, PO Barreiro frisked § 87(2)(b) (**Allegation E**) and searched all of his pockets (**Allegation F**) and did not recover any contraband save another box cutter that § 87(2)(b) previously admitted to having on his person. Sgt. DiCecco and PO Barreiro then searched § 87(2)(b)'s vehicle (**Allegation G**) and recovered the item that appeared to be a gravity knife, which they discovered was a knife with a short blade similar to a box cutter or sheetrock knife that was not illegal. During this vehicle search, either Sgt. DiCecco or PO Barreiro allegedly reached behind § 87(2)(b)'s dashboard and ripped out wires from behind the dashboard (**Allegation H**), causing § 87(2)(b)'s gauges to no longer illuminate. § 87(2)(b)'s son, § 87(2)(b), § 87(2)(b)'s girlfriend, § 87(2)(b), § 87(2)(b)'s wife, § 87(2)(b), and § 87(2)(b)'s daughter, § 87(2)(b) arrived at the scene around this time. § 87(2)(b) approached § 87(2)(b)'s vehicle as Sgt. DiCecco was searching it and PO Barreiro allegedly told her to go back to the sidewalk or she would be "fucking arrested" for coming any closer to the car (**Allegation A cont'd, I**). The officers did not recover any contraband from § 87(2)(b)'s vehicle and released him with a summons for § 87(2)(b).

On February 14, 2015, § 87(2)(b) was arrested and § 87(2)(b) went to the 121st Precinct stationhouse to find out why. Approximately nine officers surrounded § 87(2)(b) and told him to leave the stationhouse, and one of these officers told him that he would be arrested if he did not leave the stationhouse (**Allegation J**). § 87(2)(b) complied and left the stationhouse.

On February 15, 2015, § 87(2)(b) returned to the 121st Precinct stationhouse to attempt to file a complaint regarding the incident that occurred on February 10, 2015. An officer at the desk, identified by the investigation as the Telephone Switchboard (TS) Operator, told § 87(2)(b) that they do not take complaints against other officers at the stationhouse (**Allegation K**). The TS Operator gave § 87(2)(b) the CCRB's telephone number and § 87(2)(b) left the stationhouse.

§ 87(4-b) § 87(2)(g)

Mediation, Civil, and Criminal Histories

- § 87(2)(b) filed a Notice of Claim (Board Review 01) with the City of New York on § 87(2)(b) claiming he suffered “personal and physical injuries, pain and suffering, fear, invasion of privacy, psychological pain, emotional distress, mental anguish, embarrassment, humiliation, and financial loss” and is seeking damages for “pain and suffering, emotional distress, and diverse general and special damages.” A 50-H hearing was scheduled for § 87(2)(b). As such, this case is not eligible for mediation.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED].

Civilian and CCRB Officer Histories

- This is the second CCRB complaint filed by § 87(2)(b) (Board Review 03).
 - § 87(2)(b)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- This is the first CCRB complaint in which § 87(2)(b) is named as a participant (Board Review 04). § 87(2)(b)
[REDACTED]
[REDACTED]
- Sgt. Michael DiCecco has been a member of the NYPD for 21 years and has 23 prior CCRB allegations involving 11 cases with no substantiated allegations. § 87(2)(g)
[REDACTED].
- PO Genaro Barreiro has been a member of the NYPD for 3 years and has 3 prior CCRB allegations involving 2 cases with no substantiated allegations. Two of these three allegations were physical force allegations.
- PO Jose Tabora has been a member of the CCRB for 8 years and has 18 prior CCRB allegations involving 6 cases with no substantiated allegations. § 87(4-b) § 87(2)(g)
[REDACTED]
[REDACTED]

Potential Issues

- § 87(2)(b) stated that her daughter, § 87(2)(b) had a video recording of the incident on her cell phone. § 87(2)(b) and § 87(2)(b) were all informed that the investigator would like to obtain a copy of this video. However, to date, none of them have sent a copy of this video to the investigator. In addition, § 87(2)(b) refused to meet the investigator at her workplace to provide a copy of the video. § 87(2)(g)
[REDACTED]
- § 87(2)(b)'s neighbor, § 87(2)(b), has numerous surveillance cameras affixed to the exterior of his home at § 87(2)(b). § 87(2)(b) believed that these cameras captured the incident. However, § 87(2)(b) was unable to access the security footage from the computer terminal because he forgot his password. § 87(2)(g)
[REDACTED]

- § 87(2)(b) stated that on February 15, 2015, he went to the 121st Precinct stationhouse and attempted to file a complaint about the incident that occurred on February 10, 2015 and spoke to an officer seated at the front desk, who refused to take his complaint. § 87(2)(g)

Findings and Recommendations

Allegations Not Pleaded

- § 87(2)(b)'s son, § 87(2)(b) alleged that immediately prior to § 87(2)(b)'s vehicle stop, he was stopped and his own vehicle was searched by Sgt. DiCecco and Sgt. Barreiro. § 87(2)(b) stated that he saw the officers speaking to § 87(2)(b) but he did not see them outside of their RMP. § 87(2)(g) § 87(2)(b) Jr. refused to come to the CCRB to provide a sworn statement and § 87(2)(b) did not witness these allegations. § 87(2)(g)
- § 87(2)(b) stated that as he was approaching his usual parking spot, he turned his vehicle's lights off, turned left, and then pulled forward to park in his parking spot when an unmarked RMP pulled in front of his vehicle and PO Barreiro exited the RMP. Both Sgt. DiCecco and PO Barreiro stated that they observed § 87(2)(b)'s vehicle in motion without its headlamps on. § 87(2)(g)
- § 87(2)(b) alleged that when he went to the 121st Precinct stationhouse shortly after 11:12 p.m. on February 14, 2015, he pointed to Sgt. DiCecco and PO Barreiro to an officer at the desk and asked him for their identification. The investigation has identified this officer as PO Gregory Valentin, the TS Operator during Tour 3 on February 14, 2014. § 87(2)(b) did not ask Sgt. DiCecco and PO Barreiro for their names directly. § 87(2)(g)
- In her telephone statement to the CCRB on April 1, 2015, § 87(2)(b) stated that a uniformed officer said to § 87(2)(b) "This is not a fucking movie. You're under arrest for fucking drugs." § 87(2)(b) could not specify which officer this was. § 87(2)(b) did not make this allegation in any of his statements to the CCRB. § 87(2)(g)

Allegation A: On February 10, 2015, at § 87(2)(b) in Staten Island, PO Genaro Barreiro spoke rudely to § 87(2)(b) and § 87(2)(b)

Allegation B: On February 10, 2015, at § 87(2)(b) in Staten Island, PO Genaro Barreiro struck § 87(2)(b) with a blunt instrument.

§ 87(2)(b) stated that after Sgt. DiCecco's and PO Barreiro's RMP cut him off, he exited his vehicle and stood in between the opened door and the frame of his car. He alleged that PO Barreiro was yelling profanities as he approached him, but could not recall the exact word or phrase that PO Barreiro used. § 87(2)(b) stated that PO Barreiro ordered him to get back in his car and then pushed the open door into § 87(2)(b)'s chest, causing his back to hit the frame of the car. § 87(2)(b) stated that PO Barreiro told her to step back to the sidewalk or she would be "fucking arrested." § 87(2)(b) stated that she heard officers curse at § 87(2)(b) but did not recall any exact phrases that they used and could not describe any of the officers (she noted that they were all males in plainclothes). § 87(2)(b) stated that he heard an officer tell his family,

who was on the sidewalk, to “Get the fuck back,” but could not provide a physical description of any of the officers at the scene. § 87(2)(b) did not recall any officers using any profanities. None of the witnesses saw PO Barreiro push § 87(2)(b)’s door into his body.

PO Barreiro stated that § 87(2)(b) exited his vehicle on his own and that he ordered § 87(2)(b) to get back in his vehicle and he did not comply. Sgt. DiCecco stated that he and PO Barreiro ordered § 87(2)(b) to exit his vehicle three to four times, and he did not comply until approximately one minute later. Both PO Barreiro and Sgt. DiCecco denied pushing the door into § 87(2)(b) or seeing the other do so. Both PO Barreiro and Sgt. DiCecco stated that neither of them used profanities during this encounter. PO Hesterhagen did not see any officer push the door into § 87(2)(b)’s body or hear any officer use any profanities. PO Tabora had no recollection of this incident.

§ 87(2)(g)

Allegation C: On February 10, 2015, at § 87(2)(b) in Staten Island, PO Genaro Barreiro used physical force against § 87(2)(b)

Allegation D: On February 10, 2015, at § 87(2)(b) in Staten Island, Sgt. Michael DiCecco used physical force against § 87(2)(b)

§ 87(2)(b) alleged that after PO Barreiro closed the door against his body, he pushed § 87(2)(b) in his upper chest and shoulders while ordering him to get back in his car. § 87(2)(b) did not fall from these pushes and did not get back in his car. Furthermore, § 87(2)(b) alleged that PO Barreiro continued to push him as he and Sgt. DiCecco argued about a spoon used for consuming drugs that had supposedly fallen out of his car. PO Barreiro asked § 87(2)(b) for his license, registration, and proof of insurance and § 87(2)(b) refused to provide these documents to him. As § 87(2)(b) reached towards his wallet in the back pocket of his jeans, either PO Barreiro or Sgt. DiCecco took § 87(2)(b) to the back of his car and handcuffed him. While he was handcuffed, § 87(2)(b) moved his body around because the handcuffs were very tight. § 87(2)(b) noted that he was “probably raising [his] voice a little bit” and was using profanities. § 87(2)(b) alleged to have sustained a dislocated right shoulder as a result of the officers’ actions, but did not know exactly when or how he sustained this injury. § 87(2)(b)’s medical records were negative for shoulder fracture and dislocation and state that he suffered from possible minimal acromio-clavicular (shoulder joint) separation.

When § 87(2)(b) and § 87(2)(b) arrived, § 87(2)(b) was already handcuffed. § 87(2)(b) and § 87(2)(b) stated that § 87(2)(b) was standing by the rear of his vehicle at the time. § 87(2)(b) stated she saw § 87(2)(b) handcuffed at the side of his vehicle and saw PO Barreiro push § 87(2)(b) in his upper chest and shoulders, but also said that § 87(2)(b) was already standing by the rear of his vehicle when she exited the house. § 87(2)(b) believed that § 87(2)(b)’s shoulder was injured because he is a “big guy” and his arms were not supposed to be pulled back as far as they were when he was handcuffed.

PO Barreiro denied pushing § 87(2)(b) or observing any officer do so. PO Barreiro ordered § 87(2)(b) to get back in his car and provide his identification, but § 87(2)(b) refused to do so. PO Barreiro stated that § 87(2)(b) was yelling and using profanities. PO Barreiro stated that he grabbed § 87(2)(b) by his arm and brought him to the back of the vehicle to make sure he would not grab anything from the vehicle and to calm him down. PO Barreiro stated that § 87(2)(b)

moved his arms around and would not stay still while he was by the rear of the vehicle, so he handcuffed him for everyone's safety.

Sgt. DiCecco also denied pushing § 87(2)(b) or observing any officer do so. He stated that § 87(2)(b) exited his vehicle after the officers ordered him to do so three to four times. He stated that the officers asked § 87(2)(b) to step to the rear of the vehicle and that § 87(2)(b) made threatening gestures such as moving his arms and chest and lunging his shoulders. § 87(2)(b) allegedly made threatening statements such as "I've been kicking ass and I'll continue to kick some ass out here." Sgt. DiCecco stated that he and PO Barreiro handcuffed § 87(2)(b) for their safety because § 87(2)(b) was becoming more irate and the situation was becoming increasingly unpredictable. As the officers attempted to handcuff § 87(2)(b) he flailed his arms because he did not want to be handcuffed. Sgt. DiCecco noted that a certain level of physical force is necessary to handcuff an individual and stated that he used a minimal amount of physical force to handcuff § 87(2)(b).

Patrol Guide Procedure 203-11 (Board Review 05) states that officers may use the minimum amount of physical force necessary at the scene of a police incident.

§ 87(2)(g)
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Allegation E: On February 10, 2015, at § 87(2)(b) in Staten Island, Sgt. Michael DiCecco frisked § 87(2)(b)

§ 87(2)(b) stated that after he was handcuffed, Sgt. DiCecco patted him down. PO Barreiro stated that he frisked § 87(2)(b) for weapons because he noticed what he believed to be a gravity knife in § 87(2)(b)'s cup holder (see Board Review 06). He did not recall whether the box cutter was recovered from the car at this point. PO Barreiro did not recall any bulges on § 87(2)(b)'s person, but noted that he was wearing a heavy jacket. Nothing on § 87(2)(b)'s person appeared to be a weapon to PO Barreiro. He did not recall whether § 87(2)(b) admitted that he had another box cutter on his person before or after he frisked § 87(2)(b) or whether he frisked § 87(2)(b) before or after the box cutter was recovered from § 87(2)(b)'s vehicle. Sgt. DiCecco believed PO Barreiro frisked § 87(2)(b)'s outer garments for their own safety after observing a weapon (the box cutter) in § 87(2)(b)'s vehicle, which led the officers to believe that he had an additional weapon on his person. Sgt. DiCecco did not recall whether § 87(2)(b) was already handcuffed when he was frisked. This frisk produced negative results for weapons.

In order to frisk an individual, an officer must have reasonable suspicion to believe that the individual is armed (People v. DeBour; 40 N.Y. 2d 210 (1976); Board Review 05). Whether or not a frisk is reasonable "requires a weighing of the government's interest against the encroachment involved with respect to an individual's right to privacy and security. Thus, we must consider first whether or not the police action was justified in its inception and secondly whether or not that action was reasonably related in scope to the circumstances which rendered its initiation possible."

§ 87(2)(g)

Allegation F: On February 10, 2015, at § 87(2)(b) in Staten Island, Sgt. Michael DiCecco searched § 87(2)(b)

§ 87(2)(b) stated that after he was handcuffed, Sgt. DiCecco searched all of the pockets in his jeans and his zip-up hoodie. Sgt. DiCecco allegedly removed § 87(2)(b)'s wallet from his back pocket, removed items from his wallet, and placed the wallet on the trunk of his car. After Sgt. Barreiro frisked him and searched him and Sgt. DiCecco and PO Barreiro recovered the box cutter in § 87(2)(b)'s vehicle, § 87(2)(b) told them that he had an identical tool clipped to his waistband that Sgt. DiCecco failed to find when he frisked him. An officer then removed the box cutter from § 87(2)(b)'s person and placed it on the trunk of his car.

The UF250 prepared by PO Barreiro (Board Review 06) states that PO Barreiro frisked § 87(2)(b) because of “admission of weapons possession.” Independent of this document, PO Barreiro did not recall exactly where on § 87(2)(b)'s person the other box cutter was or how he learned about the box cutter on § 87(2)(b)'s person, but he did confirm that another cutting instrument was recovered from § 87(2)(b)'s person. PO Barreiro stated that he did not search any of § 87(2)(b)'s pockets besides the one that his wallet was in (to retrieve his identification) and the one that the second box cutter was recovered from. PO Barreiro did not recall whether § 87(2)(b) admitted that he had a box cutter before or after he was frisked or whether the box cutter on § 87(2)(b)'s person was recovered before or after the box cutter in the vehicle. PO Barreiro stated that Sgt. DiCecco did not frisk § 87(2)(b) or search any of his pockets.

Sgt. DiCecco stated that PO Barreiro entered § 87(2)(b)'s pants pockets and possibly also his jacket pockets to search for weapons. There were no noticeable bulges (save the bulge created by his wallet in his back pocket) or anything else on § 87(2)(b)'s person that suggested that he had a weapon. Sgt. DiCecco noted that it was “freezing” outside and that § 87(2)(b) was wearing bulky clothing, so a weapon could have been hidden anywhere on his person. Sgt. DiCecco believed PO Barreiro removed § 87(2)(b)'s wallet from his rear pocket and put it on the trunk of his car but was sure of this. Sgt. DiCecco did not recall whether § 87(2)(b)'s license was produced before or after he was handcuffed. He noted that if § 87(2)(b) was handcuffed before his license was produced, an officer would have had to reach into his pocket in order to retrieve it.

Even if an officer were entitled to frisk an individual to ensure himself that the individual was not carrying a weapon, the officer is not entitled to discover everything that the individual was carrying on his person (*People v. Liscomb*, 179 A.D.2d 1403 (1992)). The purpose of a frisk is to determine whether an individual being investigated at close range is armed and presently

dangerous to the officer or others. If a frisk goes beyond what is necessary to determine if the individual is armed, it is no longer valid (Minnesota v. Dickerson, 508 U.S. 366 (1993)). A search conducted incident to an arrest must be incident to an actual arrest, not just to probable cause that might have led to an arrest, but did not (People v. Reid, 2014 NY Slip Op 08759). See Board Review 05.

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

Allegation G: On February 10, 2015, at § 87(2)(b) in Staten Island, Sgt. Michael DiCecco searched the car in which § 87(2)(b) was an occupant.

§ 87(2)(b) stated that PO Barreiro and PO DiCecco searched his vehicle and recovered a knife with a half-inch blade from one of the cup holders in the center console. This knife had a blade that folded inward that must be manually pulled out. It also had a manual locking mechanism and could not be opened with gravity. The officers did not confiscate this knife or cite § 87(2)(b) for it. § 87(2)(b) also stated that the officers searched his glove boxes and center console and behind his dashboard.

§ 87(2)(b) stated that she observed Sgt. DiCecco and PO Barreiro search underneath § 87(2)(b)'s dashboard and around the floor of the car, but also stated that she did not see where PO Barreiro searched in the vehicle because she was standing on the sidewalk. § 87(2)(b) stated that she observed officers search through the front driver and passenger areas, but did not observe any officers search underneath or behind the dashboard and could not provide physical descriptions of the officers. § 87(2)(b) stated that he observed the officers search his entire

vehicle, including under the floor, but did not observe any officers search behind the dashboard. § 87(2)(b) observed three officers from an RMP that arrived as backup search the front and rear seat areas of § 87(2)(b)'s vehicle, but did not see any officers go behind § 87(2)(b)'s dashboard.

PO Barreiro stated that before § 87(2)(b) as handcuffed, he noticed a box cutter in the “grabbable area” of § 87(2)(b)'s vehicle. He did not recall whether the box cutter was on a seat or in the center console, but noted that it was in plain view. He did not realize it was a box cutter at the time and believed it could have been a gravity knife. PO Barreiro entered § 87(2)(b)'s vehicle, searched the “grabbable area” for weapons, and observed that the box cutter only had a blade that was about the size of a Gillette razor and opened with centrifugal force. PO Barreiro did not recall whether any other officer entered § 87(2)(b)'s vehicle. He denied that any officer searched any of the glove boxes or behind the dashboard.

Sgt. DiCecco observed what appeared to be a gravity knife in the center console. He stated that after § 87(2)(b) was handcuffed, he entered § 87(2)(b)'s vehicle and removed a blade encased in a handle that was in plain view. Sgt. DiCecco did not search anywhere besides the area that was in plain view, did not search under the dashboard, and only entered the front seat of the vehicle. Sgt. DiCecco asked § 87(2)(b) what the blade was for § 87(2)(b) said he used it for work. Sgt. DiCecco stated that the blade was not a true gravity knife and believed that it could be used for legitimate work purposes.

PO Hesterhagen did not observe any officer enter § 87(2)(b)'s vehicle. PO Tabora had no recollection of this incident.

The cup holders in the center console of a 1995 Chevrolet Impala are unobstructed. Any items placed in these cup holders would be in plain view to any individual looking into the interior of the vehicle from the exterior of the vehicle. See Board Review 08.

Under the automobile exception to the warrant requirement, an officer may search a vehicle when he has probable cause to believe it contains contraband or evidence of a crime. People v. Galak, 81 N.Y.2d 463 (1993). See Board Review 05.

§ 87(2)(g)
[REDACTED]

Allegation H: On February 10, 2015, at § 87(2)(b) in Staten Island, Sgt. Michael DiCecco damaged § 87(2)(b)'s property.

§ 87(2)(b) stated that either PO Barreiro or Sgt. DiCecco ripped out wires from behind the dashboard. At the time his vehicle was being searched, he was handcuffed and standing by the

rear of his vehicle. § 87(2)(b) did not see either officer do this. However, after the officers left and he went to finish parking his car, he noticed that the lights in the dashboard no longer illuminated. Approximately one week later, § 87(2)(b) took his vehicle to a shop and had the wires behind the dashboard repaired (see Board Review 09 for receipt). § 87(2)(b) stated that she observed PO Barreiro search underneath the dashboard but did not see what he was doing underneath the dashboard. She noted that after the incident, she observed wires ripped out from underneath § 87(2)(b)'s dashboard. Both PO Barreiro and Sgt. DiCecco acknowledged searching § 87(2)(b)'s vehicle, but neither recalled any other officer doing so. Both of them denied searching behind § 87(2)(b)'s dashboard and ripping out wires from behind the dashboard. PO Hesterhagen did not see any officer enter § 87(2)(b)'s vehicle and PO Tabora had no recollection of this incident. § 87(2)(b) and § 87(2)(b) did not see any officer search behind § 87(2)(b)'s dashboard or rip out wires from behind the dashboard. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation I: On February 10, 2015, at § 87(2)(b) in Staten Island, PO Genaro Barreiro threatened to arrest § 87(2)(b)

§ 87(2)(b) stated that she, her daughter § 87(2)(b) her son § 87(2)(b) and § 87(2)(b)'s girlfriend, § 87(2)(b) were on the sidewalk watching the encounter between § 87(2)(b) who was handcuffed, and the officers, who were searching § 87(2)(b)'s vehicle. While Sgt. DiCecco was searching § 87(2)(b)'s vehicle, she approached the vehicle to see what he was doing and entered the vehicle through the passenger side window. PO Barreiro told § 87(2)(b) to move back or she would be arrested and she complied. Sgt. Barreiro was in the vehicle for a long time, so § 87(2)(b) approached the vehicle again and PO Barreiro told her to go back to the sidewalk or she would be “fucking arrested” for coming any closer to the car (see Allegation B). § 87(2)(b) complied and returned to the sidewalk.

§ 87(2)(b) stated that the officers told § 87(2)(b) to “move away from the car before they arrest her.” § 87(2)(b) and § 87(2)(b) stated that § 87(2)(b) was on the sidewalk did not get any closer to the officers and that an officer told § 87(2)(b) to remain on the sidewalk. § 87(2)(b) did not recall any officer threatening to arrest § 87(2)(b) § 87(2)(b) did not hear any officer threaten to arrest § 87(2)(b) or give her any commands to step back.

PO Barreiro stated that § 87(2)(b) came within four feet of § 87(2)(b) and the officers and attempted to open the vehicle's front passenger door. He asked her to step back and said he would explain what was going on once the investigation was complete. § 87(2)(b) said that she wanted to make sure the officers did not hurt § 87(2)(b) PO Barreiro told her that if she kept interfering, he was going to have to ask her for her identification. PO Barreiro did not recall if he told her that she would be arrested, but noted that there were grounds to arrest her for Obstructing Governmental Administration. § 87(2)(b) stepped away approximately four feet and PO Barreiro decided to leave her alone because he did not want to further escalate the encounter.

Sgt. DiCecco stated that § 87(2)(b) was videotaping the encounter and attempted to approach the scene, ultimately coming five to six feet away from the officers and § 87(2)(b) Sgt. DiCecco asked her to step back, but did not threaten to arrest her and did not recall hearing PO Barreiro or any other officer do so. § 87(2)(b) complied and stepped fifteen to twenty feet back. PO

Hesterhagen did not hear any officer threaten to arrest § 87(2)(b) and PO Tabora had no recollection of this incident.

§ 87(2)(g)

Allegation J: On February 14, 2015, at the 121st Precinct stationhouse, an officer threatened to arrest § 87(2)(b)

§ 87(2)(b) stated that on February 14, 2015, he went to the 121st Precinct stationhouse after § 87(2)(b) got arrested by Sgt. DiCecco, PO Golat, and PO Tabora. § 87(2)(b) asked the officer at the desk to show him a copy of the warrant that § 87(2)(b) was arrested pursuant to and also asked him to identify the officers who arrested § 87(2)(b) who were at the stationhouse standing nearby. § 87(2)(b) alleged that approximately nine officers surrounded him and ordered him to leave the stationhouse. One officer told him that he would be arrested if he did not leave. § 87(2)(b) did not recall which officer said this but noted that they were all yelling. He complied and left the stationhouse.

§ 87(2)(b) stated that § 87(2)(b) was only speaking to one officer and was not interacting with a group of officers. Based on her description of this officer, he appears to be Sgt. DiCecco. She stated that Sgt. DiCecco told § 87(2)(b) that he would be arrested if he did not leave the stationhouse. § 87(2)(b) was not next to § 87(2)(b) and was not a part of his conversation so she did not know what prompted Sgt. DiCecco to make this statement.

Sgt. DiCecco stated that § 87(2)(b) arrived at the stationhouse and began to scream and curse at the Telephone Switchboard (TS) Operator. He knew that § 87(2)(b) would become more irate if he saw him, so he immediately went to his office in order to deescalate the situation. Sgt. DiCecco did not tell § 87(2)(b) that he would be arrested if he did not leave the stationhouse and no other officer made this statement in his presence. He noted that he did not have any interaction with § 87(2)(b) on this day and that PO Golat was present at the stationhouse when § 87(2)(b) arrived, but did not recall which other officers were present. PO Golat and PO Tabora had no recollection of a disturbance at the 121st Precinct stationhouse involving § 87(2)(b) or any officer telling § 87(2)(b) that he would be arrested if he did not leave the stationhouse.

§ 87(2)(g)

Allegation K: On February 15, 2015, at the 121st Precinct stationhouse, an officer did not process § 87(2)(b)'s complaint regarding officers.

§ 87(2)(b) stated that he went to the 121st Precinct stationhouse on February 15, 2015 at approximately 3:00 p.m. to file a complaint about the incident that occurred on February 10,

2015. He spoke to an officer identified by the investigation as the TS Operator. § 87(2)(b) described this officer as a uniformed white male in his late 20s. § 87(2)(b) stated that as he began to explain what happened on February 10, the TS Operator called Sgt. Dennis Wu over. § 87(2)(b) explained the entire situation to Sgt. Wu and turned his attention back to the TS Operator, who told him that officers do not take reports against other officers. The TS Operator gave § 87(2)(b) the CCRB's telephone number, which was posted on a wall nearby.

The TS Operators from Tour 2 and Tour 3 of February 15, 2015, PO Jack Becaccio and PO Victor Villarreal, did not recall interacting with § 87(2)(b) at the 121st Precinct stationhouse. PO Becaccio is a § 87(2)(b)-old white male who is 6'1" tall, weighs 215 pounds, and has black hair and brown eyes. PO Villarreal is a § 87(2)(b)-old Hispanic male who is 5'7" tall, weighs 150 pounds, and has brown hair and green eyes. Both PO Becaccio and PO Villarreal worked in uniform on this day. Sgt. Wu was receiving training to become a sergeant at the NYPD Police Academy from February 1, 2015 to March 3, 2015. He stated that he was not working out of the 121st Precinct stationhouse during that time and therefore would not have been at the stationhouse on February 15, 2015 regardless of whether or not it was his day off.

§ 87(2)(g) .

§ 87(2)(g), § 87(4-b) .

Pod: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date